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09/868,847	10/11/2001	Marc Foguene	P-62984-US-0	6456

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Supervisor Patent Prosecution Service  
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EXAMINER

BOLDEN, ELIZABETH A

ART UNIT	PAPER NUMBER
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1755

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DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/868,847

Applicant(s)

FOGUENNE ET AL.

Examiner

Elizabeth A. Bolden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-21 and 23 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

The Examiner would like to note that the serial number on the Amendment filed 19 December 2002, has the incorrect series number 10/868,847 where it should be 09/868,847.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-20 and 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gulotta et al., U.S. Patent 5,393,593.

Gulotta et al. disclose a colored glass for privacy glazing comprising 1.0-2.2 wt% total  $\text{Fe}_2\text{O}_3$ , at least 0.20 wt%  $\text{FeO}$ , 0.01-0.03 wt%  $\text{CoO}$ , and 0.0005-0.005 wt%  $\text{Se}$ . See abstract of Gulotta et al. Gulotta et al. discloses that trace amount of manganese may be present in the glass. See column 5, lines 9-13. The reference further discloses a luminous transmittance of less than 35 % and a total solar energy transmittance of less than 22 %. See abstract of Gulotta et al. Gulotta et al. disclose that the glass may have a gray tint and can deviate to a blue-gray where the excitation purity would be as high as 15 or higher. See column 4, lines 23-27. The reference further discloses that the blue-gray color is characterized by a dominant wavelength of from 485-495. See column 4, lines 35-37. The ferrous iron redox ratio ( $\text{FeO}/\text{TFe}_2\text{O}_3$ ) is from 0.2 to 0.4. See column 5, lines 55-57. Furthermore, Gulotta et al. disclose examples 8 and 11, which met the

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compositional limitations of claims 14 and 16. See Table 1. The ranges of colorants and properties disclosed by Gulotta et al. are sufficiently specific to anticipate claims 14-20 and 23.

MPEP 2131.03

Claims 14, 16-18, and 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jones, U.S. Patent 5,411,922.

Jones discloses a soda lime silica glass with a light transmittance under illuminant A (LTA) of 10-60%, a total iron oxide concentration of 0.90 to 1.90 wt%, 0.002 to 0.025 wt% Co, 0.001 to 0.006 wt% Se, and 0.1 to 2 wt% TiO<sub>2</sub>. See abstract of Jones. Jones further discloses that the glass is used for automotive windows. See column 1, lines 21-25. Jones discloses that the reduction ratio of the FeO to total Fe<sub>2</sub>O<sub>3</sub> is from 0.15 to 0.30. See column 5, line 32. Furthermore Jones discloses example 11, which has a LTA of 19.4 and a total solar energy transmittance (TSET) of 16.1 and a selectivity of 1.205 where the selectivity is the LTA/TSET. See table VI. The ranges of colorants and properties disclosed by Jones are sufficiently specific to anticipate claims 14, 16-18 and 23. See MPEP 2131.03. Moreover example 11 anticipates claims 14, 16, and 23.

Claims 14-16 and 23 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Combes et al., U.S. Patent 5,352,640.

Combs et al. disclose a colored glass for glazings i.e. sunroofs of automobiles with a total light transmission factor under illuminant A of 20% or less, a total energy transmission factor of 12% or less, a total iron oxide concentration of 1.4 to 4 wt%, 0 to 0.05 wt% Co, and where CoO+

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Se+Cr<sub>2</sub>O<sub>3</sub> < 0.24 wt%. See abstract of Combes et al. Combes et al. further disclose that the reduction ration of the FeO to total Fe<sub>2</sub>O<sub>3</sub> is below 0.30. See column 2, lines 34-37. Combes et al. disclose that the glasses would have a dominant wavelength from 485-505 nm, an excitation purity of less than 30, and a total energy transmission factor of 10% or less. See column 2, lines 50-55. These ranges are sufficiently specific to anticipate the recited limitations of claims 14-16. See MPEP 2131.03.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Combes et al. would inherently have the same properties including UV transmission factor, as recited in claim 15. See MPEP 2112.

Claims 14, 16-18, 21, and 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Seto et al. Japanese Patent Publication 10-114540.

A machine-generated translation of Seto et al. accompanies this action. In reciting this rejection, the examiner will cite this translation.

Seto et al. disclose a bluish green glass comprising a total iron oxide concentration of 1.2 to 2.2 wt%, 0.001 to 0.03 wt% Co, 0-0.008 wt% of Se, and 0-0.2 wt% of NiO. See abstract of Seto et al. Seto et al. disclose that the bluish green glass can be used for automotive windows. See paragraph [0001]. The reduction ration of the FeO to total Fe<sub>2</sub>O<sub>3</sub> is from 10-40%. See paragraph [0026]. Seto et al. disclose that total sunlight energy permeability (TG) is from 7 to 35% and the visible light transmittance (YA) is from 23 to 50%. See paragraph [0036]. The reference discloses a dominant wavelength from 480-550 nm, and an excitation purity of less than 11. See paragraph [0038]. Additionally, the reference discloses that the ultraviolet-rays

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permeability is less than 6%. See paragraph [0046]. These ranges are sufficiently specific to anticipate the recited limitations of claims 14, 16-18, 21, and 23. See MPEP 2131.03.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Seto et al. would inherently have the selectivity range, where selectivity equals YA/TG, as recited in claim 14. See MPEP 2112.

### ***Allowable Subject Matter***

Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art is deemed to be Seto et al. Japanese Patent Publication 10-114540. As shown above Seto et al. disclose a glass that meets the claim limitations of claims 14 and 21. The instant application differs from Seto et al. by requiring an excitation purity of greater than 18. Seto et al. disclose that the excitation purity is less than 11. See paragraph 38 of Seto et al.

### ***Response to Arguments***

Applicants' arguments filed 19 December 2003 have been fully considered but they are not persuasive.

The Applicants argue that Gulotta et al., U.S. Patent 5,393,593, does not describe or suggest the glass composition as recited in Claim 14. The Applicants argue that Gulotta et al. does not mention manganese oxide in the glass and that the glass of Gulotta et al. has a dominant wavelength outside the range defined in Claim 14. These arguments are not deemed persuasive

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for the following non-limiting reasons. Applicants Claim 14 recites that the manganese oxide content is "less than 0.13 wt%". This recited ranges includes from 0 wt % to 0.13 wt% of  $\text{MnO}_2$ . Therefore,  $\text{MnO}_2$  is an optional component and not required by the instant invention.

Furthermore, Gulotta et al. does disclose that other colorants such as manganese may be present in trace amounts in the glass. See column 5, lines 9-13. One of ordinary skill in the art would recognize that the manganese of Gulotta et al. would be an oxide of manganese.

The Applicants also argue that Gulotta et al. disclose a dominant wavelength from 500-560 nanometers when the glass is uncoated and that this range is outside the instant invention. However, Gulotta et al. also disclose that the glass can also have a blue-gray color that is characterized by having a dominant wavelength of 485-510 nanometers. See column 4, lines 32-38.

For the above non-limiting reasons the rejection over Gulotta et al. is maintained. See above rejection.

The Applicants argue that Jones, U.S. Patent 5,411,922, does not describe or suggest the glass composition as recited in Claim 14. The Applicants argue that Jones does not mention manganese oxide in the glass and that the glass of Jones has a dominant wavelength outside the range defined in Claim 14. These arguments are not deemed persuasive for the following non-limiting reasons. Applicants' Claim 14 recites that the manganese oxide content is "less than 0.13 wt%". This recited ranges includes from 0 wt % to 0.13 wt% of  $\text{MnO}_2$ . Therefore,  $\text{MnO}_2$  is an optional component and not required by the instant invention.

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The Applicants also argue that Jones discloses a dominant wavelength in examples outside the range of the instant invention. However, a reference is not limited to its examples for disclosure. Moreover, Jones discloses a dominant wavelength range of 480-575.5 nanometers. See column 2, lines 50-51. The Applicants also argue that there is insufficient information to calculate the FeO content of the examples of Jones, however, Jones discloses a FeO/Total Iron Oxide as  $\text{Fe}_2\text{O}_3$  ratio of 0.15-0.30 and a Total  $\text{Fe}_2\text{O}_3$  of 1.20-1.85 wt%. See column 5, lines 13 and 34. With these ranges one of ordinary skill in the art can calculate the range of FeO as FeO by multiplying 2 times the molecular weight of FeO, then dividing by the molecular weight of  $\text{Fe}_2\text{O}_3$ , which results in a range of FeO of from 0.16 to 0.50 wt%. These ranges for dominant wavelength and FeO content are sufficiently specific to anticipate the dominant wavelength and FeO content as recited in claims 14 and 16. See MPEP 2131.03.

For the above non-limiting reasons the rejection over Jones is maintained. See above rejection.

The Applicants argue that Combes et al., U.S. Patent 5,352,640, does not describe or suggest the glass composition as recited in Claim 14. The Applicants argue that Combes et al. does not mention manganese oxide in the glass and that the glass of Combes et al. has a TLA outside the range defined in Claim 14. These arguments are not deemed persuasive for the following non-limiting reasons. Applicants' Claim 14 recites that the manganese oxide content is "less than 0.13 wt%". This recited ranges includes from 0 wt % to 0.13 wt% of  $\text{MnO}_2$ . Therefore,  $\text{MnO}_2$  is an optional component and not required by the instant invention.

The Applicants also argue that Combes et al. disclose a TLA in examples outside the range of the instant invention. However, Combes et al. disclose a TLA of less than 20%. See Abstract of Combes et al. This range for TLA is sufficiently specific to anticipate the TLA as recited in claim 14. See MPEP 2131.03.

For the above non-limiting reasons the rejection over Jones is maintained. See above rejection.

The Applicants argue that Seto et al., Japanese Patent JP 10-114540, does not describe or suggest the glass composition as recited in Claim 14. The Applicants argue that Seto et al. does not mention manganese oxide in the glass and that the glass of Seto et al. has a dominant wavelength and selectivity outside the range defined in Claim 14. These arguments are not deemed persuasive for the following non-limiting reasons. Applicants' Claim 14 recites that the manganese oxide content is "less than 0.13 wt%". This recited ranges includes from 0 wt % to 0.13 wt% of MnO<sub>2</sub>. Seto et al. disclose that MnO may be included in the glass in an amount of 0-1 wt%. See paragraph [0035].

The Applicants also argue that Seto et al. disclose a dominant wavelength and selectivity in examples outside the ranges of the instant invention. However, Seto et al. disclose a dominant wavelength of 480-580 nm. See paragraph [0038]. Seto et al. also disclose a visible light transmittance and a total sunlight energy which can result in a selectivity of greater than 1.2. See paragraph [0036]. These ranges for manganese oxide, dominant wavelength, and selectivity are sufficiently specific to anticipate the manganese oxide, dominant wavelength, and selectivity as recited in claim 14 and 16. See MPEP 2131.03.

For the above non-limiting reasons the rejection over Jones is maintained. See above rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Bolden whose telephone number is 703-305-0124. The examiner can normally be reached on 8:30am to 6:00 pm with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 703-308-3823. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

EAB  
March 3, 2003

  
**DAVID SAMPLE**  
**PRIMARY EXAMINER**